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SIPDIS

STATE FOR IO/SHA, DRL/MLA

E.O. 12958: N/A

TAGS: PHUM

SUBJECT: COMMUNICATION FROM FIVE SRS ON WOMEN'S RIGHTS IN IRAQ

1. Mission received the following communication from Ambeyi Ligabo, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; Manfred Nowak, Special Rapporteur on the Question of Torture; Juan Miguel Petit, Special Rapporteur on the Sale of Children, Child Prostitution and Pornography; Yakin Erturk, Special Rapporteur on Violence Against Women; and Hina Jilani, Special Representative of the Secretary-General on the Situation of Human Rights Defenders, regarding violence against women and girls, women human rights defenders, political leaders in Iraq. This communication has been forwarded to IO/SHA via e-mail and is number 36 on the Geneva 2005 Communications Log.

2. Begin text of letter:

REFERENCE: AL G/SO 214 (67-13) G/SO 214 (107-5) G/SO 214 (69-15) G/SO 214 (53-20) G/SO 214 (89-11) USA 15/2005

30 September 2005

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture, Special Rapporteur on the sale of children, child prostitution and child pornography, Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders pursuant to Commission on Human Rights resolutions 2002/48, 2005/39, 2004/48, 2003/45 and 2003/64 respectively.

In this connection, we would like to bring to your Government's attention - as well as to the attention of the Government of Iraq, which we are also addressing on this matter - information we have received concerning violence against women and girls, women human rights defenders and political leaders.

According to information received, female political leaders and women campaigning to protect women's rights have been threatened and killed by members of armed group identifying themselves, on many occasions, as Islamic extremists targeting women for their activities in defence for women's rights.

In January and February 2004, Mrs. Yanar Mohammed, the Chairperson for the Organisation of Women's Freedom in Iraq, OWFI received death threats by e-mail from an Islamist group known as the army of Sahaba. US officials informed Mrs. Mohammed that they were not in a position to offer her protection. Similarly, Amira Salih, the manager for the US-funded women's centre in Karbala, resigned as a result of repeated death threats against her. On 9 March 2004, US lawyer and civilian employee of the Coalition Provisional Authority (CPA) Fern Holland as well as Salwa Oumashi, her Iraqi assistant, were both killed in an armed attack. Mrs. Holland was very active in supporting US-funded women's rights projects in the governorates of Babil, Karbala and Najaf. She was also involved in setting up women's centres in Hilla and Karbala. Furthermore, on 20 November 2004, Amal al-Ma'amalachi, a women's rights activist, co-founder of the Advisory Committee for Women's Affairs in Iraq and the Independent Iraqi Women's Assembly as well as adviser at the Ministry of Municipalities and Public Affairs, was killed together with her secretary, bodyguard and driver in Baghdad.

Moreover, Aquila al-Hashimi, who is one of the three female members in the Iraqi Governing Council (IGC), was killed in September 2003. Her attackers were reportedly armed men opposed to the US-led occupation. Raja Khuzai, another IGC member received death threats for opposing proposed amendments to the Personal Status Law. Moreover, on 29 March 2004, former Minister of Public Works, Nisreen Mustafa al-Burawari, who was also the only woman in the cabinet, was attacked. She survived the attack, but two of her body guards were killed. Finally, Lami'a Abed Khadawi, a member of former Prime Minister Iyad Allawi's political party, was killed upon returning home following a meeting of the National Assembly.

Moreover, women and girls, including non-Muslims, are increasingly under pressure, often violent, to wear a veil or headscarf and to wear the traditional abaya. This has led to a reduction in the number of girls and women attending schools and universities. The Ministry of Higher Education and Scientific Research has been informed of 3000 cases of women and girls who have requested a postponement of their studies as a result of the security situation linked to this matter. An increase in acid attacks at the hands of Islamist groups and militia against women for not wearing the veil and not wearing the traditional abaya have also been reported. Justification for these attacks is based on the reasoning that when a woman or a girl does not wear a veil or the abaya, she is going against Muslim traditions and should be punished. This, together with the general increase in insecurity in the country, has also drastically led to the restriction of women's freedom of movement and their ability or willingness to participate in public life, particularly in education, employment and political decision-making. The prohibition of deciding about one's choice of clothes also leads to a violation of the right to freedom of expression.

Women and girls have also been subjected to sexual threats by members of the US forces, including at check points and during house searches, for example. Moreover, women and girls have been beaten, subjected to humiliating treatment, held for long periods in solitary confinements, and sexually abused while in detention by US forces. Rape and killing by criminal gangs, extremist religious groups and armed opposition groups has also increased.

Domestic violence continues to be very common and according to article 41.1 of the Penal Code of 1969, which is still in force, a husband who 'disciplines' his wife is exempt from criminal liability. Moreover, most victims of domestic violence have no access to medical treatment. Such violence, including forced marriages and sexual abuse, has also led to the increase in suicides and self-immolations, as well as killings. In northern Iraq, the practices of Jin be Jin (exchanging one woman for another) has contributed to the high incidence of forced marriage. Honour killings and mutilations are also condoned in Iraqi legislation. The law allows the mitigation of punishment for perpetrators found guilty of these crimes. The continued use of female genital mutilation continues to be reported in the northern region of Iraq. Gender discrimination in Iraq's laws further exacerbates and entrenches the persistence of violence against women.

Without in any way making any determination on the facts and circumstances of this case, we should like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression of the above mentioned person, in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights and reiterated in article 19 of the International Covenant on Civil and Political Rights which provide that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

We would like to draw your attention to the Declaration on the Elimination of Violence against Women, which stipulates that all States should exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons (art 4 (c)). Furthermore, article 3 of the Declaration states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia: the right to life; the right to equality; the right to liberty and security of person; the right to equal protection under the law; the right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment, and the right to the highest standard attainable of physical and mental health.

We would also like to refer Your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and

other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring your Excellency's attention to the following provisions, and in particular:

"- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms."

Furthermore, in the Convention on the Elimination of all Forms of Discrimination against Women, states agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right (...) to participate in non-governmental organizations and associations concerned with the public and political life of the country (Art.7(c)).

We should also like to appeal to your Excellency to seek clarification of the circumstances with a view to ensuring that the right to physical and mental integrity of the above-named person is protected. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention against Torture. In particular, we would like to refer your Excellency's Government to the Convention on the Rights of the Child. In particular, article 19 states that States Parties shall take all appropriate legislative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.

We would like to refer your Excellency's Government to the Convention on the Rights of the Child. In particular, article 19 states that States Parties shall take all appropriate legislative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.

We urge your Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and accountability of any person guilty of the alleged violations ensured. We also request that your Government adopts effective measures to prevent the recurrence of these acts.

Moreover, it is our responsibility under the mandates provided to us by the Commission on Human Rights and reinforced by the appropriate resolutions of the General Assembly, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Commission, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide statistical information since March 2003 on the number of complaints concerning violence against women and girls which have been filed with the police by the victims themselves or on their behalf. Please disaggregate by age the information concerned.
3. Please provide the details, including statistical information, and where available the results, of any investigations, including medical examinations of the victims, and judicial or other inquiries carried out in relation to the above-mentioned violence against women and girls since March 2003. If no inquiries have taken place or if they have been inconclusive, please explain why.
4. In the event that perpetrators for the above-mentioned acts of violence against women and girls have been identified, please provide the full details, and statistical information if available, of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? Please

provide information concerning the punishments provided for by law for acts of violence against women and girls, and the sanctions that have been imposed on any persons found guilty of having committed these acts?

15. Please indicate whether national law provides for compensation for human rights violations and whether compensation has been provided or will be provided to victims or their families subjected to violence against women.

16. Please indicate what action has been taken, in line with your Excellency's Government responsibility to exercise due diligence pursuant to the International Declaration on the Elimination of Violence against Women, to prevent acts of violence against women and girls by, for example:

i. Providing the necessary security measures, including an increase in military presence.

ii. Carrying out educational campaigns on human rights, particularly on the human rights of women and girls, as well as on the phenomenon of violence against women and girls and national and international standards calling for its elimination.

iii. Training judges, magistrates, prosecutors, police officers and investigators, military officers of all ranks, prison officers, medical staff and other relevant public officers, on national and international human rights norms and standards, particularly on the human rights of women and girls, as well as on the phenomenon of violence against women and girls and national and international standards calling for its elimination.

17. More generally, please provide information on plans and already existing efforts to prioritize the issue of violence against women and girls by, inter alia, (1) allocating necessary resources in the country's annual budget, (2) working with donor agencies to fund programmes aimed at eliminating violence against women, and working strategically with national and international civil society, as well as the UN agencies, to address this matter at all levels, including the legal, social, cultural, traditional and historical levels.

18. Please indicate any obstacles faced by your Excellency's Government in addressing the above-mentioned issues and identify the assistance you require to fulfil your international human rights obligations in this regard. We would appreciate a response by sixty days. We undertake to ensure that your Government's response to each of these questions is accurately reflected in the reports we will submit to the Commission on Human Rights for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Ambeyi Ligabo  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Manfred Nowak  
Special Rapporteur on the question of torture

Juan Miguel Petit  
Special Rapporteur on the sale of children, child prostitution and child pornography

Yakin Ertiirk  
Special Rapporteur on violence against women, its causes and consequences

Hina Jilani  
Special Representative of the Secretary-General on the situation of human rights defenders

End text of letter.

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